

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

<p>Date of mailing (day/month/year) see form PCT/ISA/210 (second sheet)</p>		
<p>Applicant's or agent's file reference see form PCT/ISA/220</p>		<p>FOR FURTHER ACTION See paragraph 2 below</p>
<p>International application No. PCT/EP2004/002255</p>	<p>International filing date (day/month/year) 05.03.2004</p>	<p>Priority date (day/month/year) 07.04.2003</p>
<p>International Patent Classification (IPC) or both national classification and IPC C04B40/00</p>		
<p>Applicant CONSTRUCTION RESEARCH & TECHNOLOGY GMBH</p>		

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Gattinger, I

Telephone No. +49 89 2399-6097



WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITYInternational application No.
PCT/EP2004/002255**10/551982****Box No. I Basis of the opinion**

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. II Priority

1. The following document has not been furnished:

copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or
Industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	2-5
	No: Claims	1,6-10
Inventive step (IS)	Yes: Claims	
	No: Claims	2-5
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1. The following documents are referred to in this communication:
D1 : EP 0 641 746 A (SANDOZ AG) 8 March 1995
D2 : PATENT ABSTRACTS OF JAPAN, vol. 1997, no. 05, 30 May 1997
& JP 9 020540 A (SHIN ETSU CHEM CO LTD), 21 January 1997
2. The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of claims 1 and 6 to 10 is not novel in the sense of Article 33(2) PCT.

The document D1 discloses (cf. the search report; the references in parentheses applying to this document):

An admixture composition for cementitious compositions comprising a waterproofing agent such as a paraffin emulsion (page 2; line 35) and a water retention agent such as a water-soluble poly(alkylene oxide) (page 2; lines 48 to 49). Optionally a further plasticizer may be added (page 2; lines 54 to 55) which may contain an polysiloxane group linked to the maleic acid monomer (page 3; lines 25 to 36). The subject-matter of independent claims 1, 9 and 10 is therefore not novel in light of D1 (Article 33(2) PCT).

D1 specifies furthermore the paraffin emulsion to be an anionically-emulsified paraffin mixture with a fusion point between 45 and 51 °C and a particle size of less than 2 µm (page 2; lines 38 to 40) as well as the (poly alkylene oxide) being an polyethylene oxide with a molecular weight in the range of 2 to 5 million (page 2; lines 49 to 53). Dependent claims 6 to 8 are therefore also not novel.

3. The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of claims 2 to 5 does not involve an inventive step in the sense of Article 33(3) PCT.

The document D1 is regarded as being the closest prior art to the subject-matter of claims 2 to 5 (see paragraph 2). The subject-matter of claims 2 to 5 differs from this known D1 in that the structure of the siloxane component is not specified.

It would appear, that the skilled person starting from the teaching of D1 and

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seeking to improve the shrinkage reducing properties of the admixture composition in the cementitious composition takes account of D2, which mentions this problem and would apply a polyoxyalkylene modified organo polysiloxane (see paragraphs [0016] to [0018] of D2) to solve this problem. Thus the subject matter of claims 2 to 5 results from the combination of D1 and D2 in an obvious manner and is therefore not inventive.